UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NORTH CAROLINA
WESTERN DIVISION

No. 5:12-CV-456-F

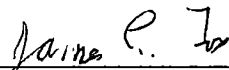|	
DARWIN JOHNSON, et al.,	)
Plaintiffs,	)
	)
v.	)
	)
CITY OF FAYETTEVILLE, et al.,	)
Defendants.	)

ORDER

This matter is before the court on the Consent Motion to Dismiss All Claims Against City Defendants With Prejudice [DE-380].

As the memorandum in support of the motion recognizes, this court has previously allowed several defendants' motions to dismiss and motions for summary judgment which dismissed many claims asserted by Plaintiffs. *See* March 28, 2015 Order [DE-129]; June 19, 2014 Order [DE-215]; March 4, 2015 Order [DE-338]. Additionally, in an order filed on June 2, 2015 [DE-370], the court severed the state-law negligence claim asserted by Plaintiff LaTonja Johnson against Defendant Heather St. John, and remanded the claim to the North Carolina Court of General Justice, Superior Court Division, Cumberland County. As a result of those rulings, the only claims surviving in this action are asserted by Plaintiff Darwin Johnson against Defendant Shane Koehler, specifically claims for (1) false arrest and excessive force pursuant to § 1983; (2) false imprisonment and assault and battery pursuant to state law, and (3) punitive damages.

The motion recognizes this procedural history, but requests that the court exercise its discretion pursuant to Rule 41(a)(2) and dismiss "the case" against the City Defendants. To the extent that the consent motion seeks the dismissal of claims that have already been dismissed by the court's prior orders, the motion [DE-380] is DENIED as moot. To the extent the consent motion

seeks to voluntarily dismiss the three remaining claims asserted by Darwin Johnson against Shane

Koehler, the motion [DE-380] is ALLOWED. All other pending motions are DENIED as moot, and

the Clerk of Court is DIRECTED to remove this matter for the court's pretrial and trial calendars

and close this case.

SO ORDERED. This the 19 day of June, 2015.

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James C. Fox
Senior United States District Judge

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